

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARK JOHNSON,

Plaintiff,

No. C 09-05503 JSW

v.

THE CITY AND COUNTY OF SAN  
FRANCISCO, THE CIVIL SERVICE  
COMMISSION OF SAN FRANCISCO, and  
THE SAN FRANCISCO FIRE  
DEPARTMENT,

Defendants.

**NOTICE OF TENTATIVE  
RULING AND QUESTIONS**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE  
NOTICE OF THE FOLLOWING **TENTATIVE** RULING AND QUESTIONS FOR THE  
HEARING SCHEDULED ON AUGUST 4, 2010 AT 10:00 A.M.:

The Court has reviewed the parties' papers and, thus, does not wish to hear the parties  
reargue matters addressed in those pleadings. If the parties intend to rely on authorities not  
cited in their briefs, they are ORDERED to notify the Court and opposing counsel of these  
authorities reasonably in advance of the hearing and to make copies available at the hearing. If  
the parties submit such additional authorities, they are ORDERED to submit the citations to the  
authorities only, with reference to pin cites and without argument or additional briefing. *Cf.*  
N.D. Civil Local Rule 7-3(d). The parties will be given the opportunity at oral argument to  
explain their reliance on such authority. The Court suggests that associates or of counsel  
attorneys who are working on this case be permitted to address some or all of the Court's

1 questions contained herein.

2 The Court **tentatively DENIES** Plaintiff's motion for temporary restraining order.

3 The parties shall each have 20 minutes to address the following questions:

- 4
- 5 1. On what authority does Plaintiff rely to assert standing to object to the administration of
- 6 an examination that he is not eligible to take? Is the allegation that Plaintiff would be
- 7 harmed by administration of the examination for an advanced position when he alleges
- 8 discrimination in the administration of the examination he was qualified to take too
- 9 attenuated to create standing?
- 10 2. Is irreparable injury presumed because Plaintiff alleges violations of his Equal
- 11 Protection rights? If so, by what evidence does the City rebut the presumption?
- 12 3. On what basis does Plaintiff allege irreparable injury if the City plans to administer the
- 13 examination again within four to five years?
- 14 4. Do the parties have anything further they wish to address?

15 **IT IS SO ORDERED.**

16 Dated: August 3, 2010

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19 JEFFREY S. WHITE  
20 UNITED STATES DISTRICT JUDGE  
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